

MINUTES OF THE MEETING
OF THE
BOARD OF OPTOMETRY

October 21, 2005

ROLL CALL

The meeting of the Board of Optometry was called to order at 9:30 a.m. by Dr. Wayne Quincy, Chairman, in the Board Room, Holiday Inn, Kearney, Nebraska. The agenda was sent to the Board members and other interested parties prior to the meeting. The following members answered the roll call:

Wayne Quincy, O.D., Chairman
James Kirchner, O.D.
David Kincaid, O.D., Vice-Chairman
Shelley Fastenau

Present from the Credentialing Division was Becky Wisell, Section Administrator and Vonda Apking, Credentialing Coordinator. Also present by telephone were Michael Grutsch, Program Manager, Investigations Division; Suzanne Tesina, Credentialing Specialist, Credentialing Division; and Brad Shaff, Assistant Attorney General.

ADOPTION OF AGENDA

Kirchner moved, seconded by Fastenau, to adopt the agenda with Chairman having the ability to rearrange. Voting aye: Kincaid, Kirchner, Fastenau, and Quincy. Voting nay: none. Absent: none. Motion carried.

APPROVAL OF MINUTES

September 8, 2005

Apking commented that under UNIFORM LICENSING LAW, line 6, the sentence starting with Anderson should be deleted. Wisell commented that under UNIFORM LICENSING LAW, line 8, the word "were" should be "where". Wisell also commented that under OPTOMETRY PRACTICE ACT CHANGES, line 1 and line 2, the word "were" should be "where". Kirchner moved, seconded by Fastenau, to adopt the minutes as corrected. Voting aye: Kincaid, Kirchner, Fastenau, and Quincy. Voting nay: none. Absent: none. Motion carried.

INVESTIGATIVE REPORTS AND COMPLIANCE MONITORING REPORTS – CLOSED SESSION

Kincaid moved, seconded by Kirchner, to go into closed session at 9:35 a.m. for the purpose of hearing the investigative reports and compliance monitoring reports. Voting aye: Kincaid, Kirchner, Fastenau, and Quincy. Voting nay: none. Absent: none. Motion carried.

Kirchner moved, seconded by Fastenau to go into open session at 10:15 a.m. Voting aye: Kirchner, Fastenau, and Quincy. Voting nay: None. Absent: Kincaid. Motion carried.

Mike Grutsch left the meeting at 10:16 a.m.

Ed Schneider, O.D. from the Nebraska Optometric Association (NOA) joined the meeting at 10:17 a.m.

DISCIPLINARY INFORMATION – ACTIONS TAKEN/PENDING

No actions taken/pending at this time.

APPLICATION REVIEW

Reinstatement

The Board commented that some of the continuing education courses that Kristi Stephenson, O.D., provided may not be acceptable continuing education. The Board reviewed her continuing education hours and dates and determined that Dr. Stephenson did not have enough continuing education hours to reinstate her license. According to the Board's review, Dr. Stephenson has 29.5 hours of acceptable continuing education. The Board suggested talking to Dr. Stephenson about the designation of 'general education' on the hours listed on the letter from the Texas Board of Optometry. Kincaid moved, seconded by Kirchner, to request Dr. Stephenson to provide additional information on the specific courses she took or provides the Board with additional acceptable continuing education hours. Voting aye: Fastenau, Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: none. Motion carried. The Board also mentioned that Department staff should remind Dr. Stephenson that acceptable continuing education courses need to be clinical in nature and that if the hours are clinical in nature and not practice management that the license can be issued without bringing it back to the Board, and if not, then Dr. Stephenson would need to submit more hours for review by the Board. Voting aye: Fastenau, Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: none. Motion carried.

Initial Licensure

Fastenau moved, seconded by Kincaid, to recommend issuance of a two-year probationary license to Julie Germer, with the following conditions: 1) Comply with the recommendations of psychiatrist Walter J. Duffy, M.D., as stated in his letter dated October 18, 2005, which includes outpatient psychotherapy to address her eating disorder symptomology as well as symptoms of impulsivity and depression and comply with any recommendations for medication treatment/management; 2) That her mental health provider submits a treatment plan and monthly progress reports; 3) That she notify her employer of her probationary license; 4) That her employer submit quarterly employer reports; and included other standard probationary language. The basis for

issuing a probationary license is misrepresentation on her application of material facts for failure to disclose a complete conviction history. Voting aye: Fastenau, Kincaid, and Quincy. Voting nay: Kirchner. Absent: none. Motion carried.

UNIFORM LICENSING LAW REWRITE

Wisell explained that all comments received up to this point on the draft regulations were considered and revisions were made to the draft. October 11 was the deadline for receiving comments on the Uniform Licensing Law (ULL) draft regulations. Wisell explained that in the first draft, since the term 'advice' was used, it was thought that the Board had less power and that the Board was just an advisory board providing recommendations to the Department. Comments were received that Boards wanted to have approval authority for specific kinds of things. The Department agreed that Boards should have the ability to approve 1) Continued competency requirements, 2) Requirements for issuing the license, 3) Requirements for renewing a license, 4) Educational programs, 5) Reinstatements after discipline, and 6) Grounds for unprofessional conduct. The Department still has the authority to decide whether to issue or not issue a credential, but as far as setting the standards a person has to meet to obtain or renew a license, the Board will have the ability to establish and approve those requirements. The Board suggested that the word "recommendation" needs to be defined. The Department plans to revisit licensure by endorsement to make sure everyone has same understanding of the term 'endorsement'. Kirchner mentioned that Association of Regulatory Boards of Optometry (ARBO) has a program called Council on Endorsed Licensure Mobility for Optometrists (CELMO). CELMO is available to assist state optometry boards in reviewing applications for licensure from established practitioners in other jurisdictions. Kirchner explained some of the requirements. Shaff questioned whether all states have the same standards for issuing a license. If states do not then there could be a public safety issue for applicants that were required to meet a different standard for licensure. Wisell asked the Board if they wanted to keep language concerning active practice of at least one of the previous three years.

Wisell explained the current process for reinstatement after discipline. If the Board recommends denial of reinstatement after discipline, the Department cannot overrule this decision and the petitioner would need to appeal to district court. Wisell explained that with initial licensure recommendations, the Board makes their recommendation and then the division director could either agree with the Board or overrule the Board's recommendation. Wisell also explained that it is Ms. Meeks current policy to send a letter to the Board members if she has a different view concerning the issuance or denial of a license. Kincaid questioned whether this would change if top management positions were changed. Wisell mentioned that she could not comment on what might or might not happen under that condition.

Wisell explained the waivers available for the continuing competency requirements. In the ULL rewrite the only two waivers available are for active military service during the renewal period or the licensee was issued an initial license within the two years immediately preceding the renewal date. Wisell explained that the Board may add

additional waivers for meeting the continuing competency requirements into their practice act. One waiver could be for having a serious or disabling illness that would not allow the licensee to physically attend the required amount of continuing education. Another, which was inadvertently deleted in a Department clean-up bill, was if the licensee was initially licensed within the 26 months immediately preceding the renewal date. Wisell also explained that adding an additional professional board member to the Board of Optometry would need to be added to the practice act.

OPTOMETRY PRACTICE ACT CHANGES

Kirchner discussed licensure by endorsement. Kirchner explained that the American Optometric Association (AOA) has a committee that has looked at the state laws for their licensure requirements. The Board could compare that compilation and compare them to Nebraska's licensure requirements. This would help ensure that any optometrist wanting to practice in Nebraska would meet the highest level of practice standards. In 1996, the AOA passed a proclamation where they urged all states and state boards to try to work on the issue of licensure by endorsement so that optometry profession could be more mobile. Kirchner mentioned the CELMO requirements and that there are eight states that accept CELMO for licensure by endorsement. Kirchner commented that the Board should explore this issue further and the issue should be discussed at the next Board meeting. The Board should determine whether or not CELMO could be used as meeting a requirement for licensure by endorsement. Wisell commented that CELMO could be a requirement for endorsement licensure but the Department may not be comfortable with CELMO being the only requirement that an applicant would have to meet for licensure by endorsement. Kirchner commented that CELMO requires that an optometrist have practiced three of the last four years.

CELMO packets need to be obtained for the next Board meeting.

Schaff left the meeting at 11:42 a.m.

RFP FOR OPTOMETRIC EDUCATION OR PROFESSIONAL DEVELOPMENT

Kincaid explained changes. The Board agreed with the suggested changes but made some suggestions for additional language. Ed Schneider, O.D., NOA, questioned language in the RFP concerning community based employees. Quincy mentioned that language on page 4 under Proposal Review Process, mentions that the Director decided who receives the funding, should this not be the Board decision. Wisell will check on these concerns. Apking will make the changes and send to the Board members to review.

FINANCIAL REPORT

Wisell explained that the budget status report does not include budgeted amounts because she still needs to prepare the FY06 budget. Wisell will send the FY06 budget to the Board members as soon as she drafts the budget.

GENERAL INFORMATION

The Board scheduled their next meeting for Wednesday, February 8, 2006 at 1:30 p.m.
The meeting will be held at the Staybridge Suites in Lincoln, if available.

ADJOURNMENT

Kincaid moved, seconded by Fastenau, to adjourn the meeting at 12:10 p.m. Voting aye: Fastenau, Kincaid, Kirchner, and Quincy. Voting nay: none. Absent: none. Motion carried.

Respectfully submitted,

A handwritten signature in cursive script, reading "James K. Kirchner O.D.", written in dark ink.

James K. Kirchner, O.D.
Secretary
Board of Optometry